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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,718	07/30/2003	Masahiro Watanabe	1344.1121	6838

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EXAMINER

CARTER, AARON W

ART UNIT	PAPER NUMBER
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2625

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. ✓

10/629,718 ✓

Applicant(s)

WATANABE ET AL.

Examiner

Aaron W. Carter

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 12-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 01/22/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

2. Claim 5 is objected to because of the following informalities: In line 4 of claim 5, the word “th” appears to be misspelled. Appropriate correction is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-7 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 1 is drawn to functional descriptive material NOT claimed as residing on a computer readable medium. MPEP 2106.IV.B.1(a) (Functional Descriptive Material) states:

“Data structures not claimed as embodied in a computer-readable medium are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer.”

“Such claimed data structures do not define any structural or functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure’s functionality to be realized.”

Claim 1, while defining an “image processing program”, does not define a “computer-readable medium” and is thus non-statutory for that reasons. An “image processing program” can range from paper on which the program is written, to a program simply contemplated and memorized by a person. Normally the examiner would suggest amending the claim to embody the program on “computer-readable medium” in order to make the claim statutory, however this would make claim 1 identical to claim 8.

“In contrast, a claimed computer-readable medium encoded with the data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure’s functionality to be realized, and is thus statutory.” - MPEP 2106.IV.B.1(a)

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 8-11, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,748,802 to Winkelman.

As to claim 8, Winkelman discloses a computer-readable recording medium recorded with an image processing program for realizing on a computer:

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A statistic extracting function for extracting a mean value and a standard deviation of a feature quantity of an image (column 16, lines 9-18, wherein the mean and standard deviation are extracted and used in finding the Histogram Parameter Skew and Kurt);

An image condition judging function for judging an image condition, based on the mean value and the standard deviation extracted by said statistics extracting function (column 17, lines 4-32, wherein the image condition is judged and classified based on the Skew and Kurt);

A correction information creating function for creating image correction information in the image condition judged by said image condition judging function, based on the mean value and the standard deviation extracted by said statistics extracting function (column 17, lines 4-40, wherein once classified the a corresponding Rms value is acquired and applied to determine a correction factor (k)); and

An image correcting function for correcting the image, based on the image correction information created by said correction information creating function (column 15, lines 31-39).

As to claim 9, Winkelman discloses a computer-readable recording medium recorded with an image processing program according to claim 8,

Wherein said image condition judging function judges the image condition of said image through a two-dimensional normal distribution probability function for calculating the probability that an image belongs to each image condition, in which the mean value and the standard deviation of the image feature quantity are set to variables (column 16, lines 9-18 and column 17, lines 10-18).

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As to claim 10, Winkelman discloses a computer-readable recording medium recorded with an image processing program according to claim 9,

Wherein when the maximum value of said probability is larger than a predetermined value, said image condition judging function judges that the image condition which becomes said probability is the image condition of said image (column 17, lines 10-18).

As to claim 11, Winkelman discloses a computer-readable recording medium recorded with an image processing program according to claim 9,

Wherein when the maximum value of said probability is a predetermined value or less, said image condition judging function judges that said image belongs to a plurality of image conditions (column 17, lines 10-18).

As to claims 1-4, please refer to the rejection of claims 8-11 above.

As to claim 15, please refer to the rejection of claim 8 above.

As to claim 16, please refer to the rejection of claim 8 above.

Allowable Subject Matter

6. Claims 12-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

USPN 6,580,825 to Bhaskar discloses image correction using mean and standard deviation.

USPN 6,826,310 to Trifonov et al. discloses image correction using mean and standard deviation.

USPN 5,544,258 to Levien discloses image correction using mean and standard deviation.

USPN 6,539,106 to Gallarda et al. discloses image correction using mean and standard deviation.

USPN 6,169,282 to Maeda et al. discloses image correction using mean and standard deviation.

USPN 6,862,363 to Brown et al. discloses image correction using mean and standard deviation.

US Patent Application Pub. 2002/0054712 to Sun discloses image correction using mean and standard deviation.

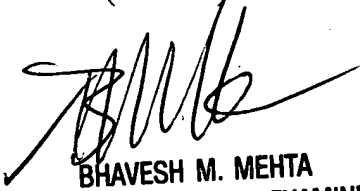
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron W. Carter whose telephone number is (571) 272-7445. The examiner can normally be reached on 8am - 4:30 am (Mon. - Fri.).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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